

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
EVANSVILLE DIVISION

OTTO C. SUSEC, JR., MD	)	
Plaintiff,	)	
	)	
vs.	)	CAUSE NO. 3:21-cv-64
	)	
TEAM HEALTH aka EMERGENCY	)	
PROFESSIONALS OF INDIANA, PC	)	
Defendant.	)	

**COMPLAINT FOR DAMAGES**  
(Demand for Jury Trial)

Comes now the Plaintiff, Otto C. Susec, Jr., MD (“Dr. Susec”), and for his Complaint against Team Health aka Emergency Professionals of Indiana, PC (“Team Health”), states as follows:

**NATURE OF CAUSE**

1. This action is brought under the provisions of 29 U.S.C.A. § 621, et. seq., and under 28 U.S.C.A. § 1331 to redress and enjoin unlawful employment practices.

**JURISDICTION**

2. Dr. Susec is a male citizen of the United States and a resident of this judicial district.

3. Team Health is an Indiana corporation doing business in Evansville, Indiana, with its principal place of business in Knoxville, Tennessee.

4. At all times relevant to this Complaint, Team Health employed more than twenty (20) people.

5. All work by Dr. Susec for Team Health was done at the St. Vincent Evansville, and St. Vincent Warrick facilities located in Vanderburgh and Warrick Counties in Indiana.

6. Team Health is an employer within the meaning of 29 U.S.C.A. § 630.

7. Dr. Susec was born on August 13, 1968 and is currently fifty-two (52) years old.

8. In September, 2020, Dr. Susec filed charges of age discrimination with the Equal Employment Opportunity Commission (EEOC) against Team Health (Charge #470-2020-03985).

9. On January 26, 2021, the EEOC issued Notice of Right to Sue on Dr. Susec's Charge.

10. All conditions precedent to the institution of this action have been met.

#### GENERAL ALLEGATIONS

11. Dr. Susec was recruited and hired by Team Health in April, 2012 as a "Special Ops" traveling physician. Three months later, Dr. Susec was recruited by Team Health to become its Medical Director at St. Vincent Evansville in April, 2012. Dr. Susec also became the Medical Director at St. Vincent Warrick in April 2014.

12. Prior to accepting the position as a medical director, he had no previous job experience and no previous leadership experience. Team Health trained Dr. Susec to be a medical director through on-the job experience, leadership seminars, and annual meetings at Team Health's expense.

13. Dr. Susec served as Medical Director at both St. Vincent Evansville and St. Vincent Warrick until August 1, 2020, when he was discharged from his position as Medical Director at these facilities.

14. As the Medical Director for two (2) hospital emergency departments, Dr. Susec supervised a minimum of seventeen (17) doctors and ten (10) mid-level providers at any given

time. At all times relevant thereto, Dr. Susec's work performance was consistently lauded as exemplary by present and past St. Vincent administrators and Team Health supervisors alike. In fact, Dr. Susec was honored as Team Health's regional "Medical Director of the Year" in 2013. Nominated by hospital leadership in 2014, Dr. Susec was recognized with a "Healthcare Hero" award for the Southern region of Indiana. Since 2015, St. Vincent has even featured his likeness as the leader of their emergency departments in regional newspapers, magazines and TV advertising. Team Health was aware and supported this advertising. Dr. Susec was not contracted for or compensated for such advertising that benefitted Team Health and the Hospital.

15. Although Dr. Susec's contract with Team Health designates him as an independent contractor, for intents and purposes by law, Dr. Susec was an employee of Team Health. Throughout the U.S., Team Health sometimes treats its medical directors as independent contractors, and at other times as employees, irrespective of the amount of control that Team Health maintains over such medical directors. Dr. Susec recruited, hired, managed and fired Team Health employees at St. Vincent, including Nurse Practitioners, Physician Assistants and his Administrative Assistant.

16. Under the ADEA, Dr. Susec was an employee of Team Health.

17. As a medical director, Dr. Susec had both medical care and administrative responsibilities for Team Health. Team Health maintained the right to exercise dominion and control over Dr. Susec's activities not only as to the result but also as to the means, methods, and details used to accomplish the result.

18. Team Health provided medical malpractice insurance for Dr. Susec and he was provided office space and a Team Health employee-contracted administrative assistant to assist

Dr. Susec to conduct Team Health's business at the Hospital. He was paid fringe benefits, worked over forty (40) hours per week, and had no investment in Team Health's business. Team Health restricted his work at other regional hospital facilities as a medical director.

19. Dr. Susec was subject to strict and regular supervision by Team Health. He was given strict parameters over scheduling and modification of provider hours and was required to hold monthly meetings with his providers as well as hospital administrators and to provide them with reports or minutes of the meetings. He recruited, interviewed, hired, oriented, reprimanded, re-mediated, and fired Team Health providers. Team Health paid for Dr. Susec's licenses, fees, certifications and nearly all of his business related expenses.

20. The control exercised over Dr. Susec by Team Health included the following:

- a. Dr. Susec was required to report his time spent at both the Evansville and Warrick facilities and was required to participate in various committees and administrative meetings. Furthermore, at Team Health's directive, Dr. Susec was asked to create and chair a multi-disciplinary committee for the duration of his St. Vincent Evansville directorship.
- b. He was incentivized financially to modify provider documentation and performance that was directly tied to maximizing patient revenues.
- c. Dr. Susec received strict and regular supervision by Team Health through rounding meetings at which he was required to provide an agenda, metrics and updates. In addition, Dr. Susec was given an annual performance evaluation by Team Health.
- d. Team Health gave Dr. Susec strict parameters on scheduling and modification of provider hours which is by far Team Health's greatest operational expense.
- e. Team Health required Dr. Susec to supervise and give annual evaluations to all Team Health providers, many of which were Team Health employees.
- f. Team Health required that Dr. Susec hold monthly meetings with providers as well as with hospital administrators and provide them with meeting minutes and reports.

- g. Team Health asked Dr. Susec to recruit, interview, hire, orient, coach, reprimand, and remediate providers.
- h. Team Health held Dr. Susec accountable for the costs of the operation at St. Vincent and even cited such as part of the reason for his termination. Dr. Susec also frequently led financial meetings with St. Vincent if Team Health was unfamiliar with their own financial details.
- i. The term of Dr. Susec's Team Health job commitment was renewed annually and indefinitely.
- j. Dr. Susec was required by Team Health to have monthly recalls with Team Health recruiters regarding short and long-term physician and APC recruiting needs.
- k. Dr. Susec was required to regularly round with each provider and provide updates and any issues of potential interest to Team Health leadership.

### **The Hostile Work Environment**

21. Prior to his termination and still continuing, there exists a hostile work environment for older physicians working at the St. Vincent Evansville facility. This hostile environment was created by a clique of younger providers who waged, and continue to wage, a campaign against older and minority providers. This clique self-identifies itself as the "Chihuahuas"<sup>1</sup>. Less than twenty-four (24) hours after the public announcement of his termination, the Chihuahuas posted a photograph of themselves wearing Chihuahua tee shirts. These Chihuahuas knew of Dr. Susec's termination before it was publicly announced.

22. On information and belief, Dr. Steele was complicit with this clique leading to the termination as well as years-long tolerance of the hostile environment.

---

<sup>1</sup> The word "Chihuahua" translates as "land piranha" in Aztec. Historically, the "Chihuahua complex" in guerrilla warfare represents a strategy of annoyance until the enemy gives in.

23. This clique created a very disruptive environment that Dr. Susec repeatedly solicited Dr. Steele for advice and help with. Instead of Team Health dealing with this disruptive environment, Team Health continually favored this clique by crediting unfounded complaints made by their members against Dr. Susec and other older providers. The hostile environment is evidenced by the following:

- a. The Chihuahuas were intolerant of diversity and frequently portrayed older and foreign-born providers as incompetent, lazy, under-trained, lacking wherewithal, etc. Derogatory remarks attributed to the Chihuahuas about older providers included references such as “old man” and “senior citizen” in addition to disparaging comments about hair loss, poor vision, outdated clothing choices and preferred scheduling given to older providers.
- b. Dr. Susec was portrayed as inept, complacent and apathetic by the members of the clique. Their members complained that Dr. Susec was protecting the status quo and older providers, who they claimed were not qualified to work at St. Vincent.
- c. The clique made up allegations against Dr. Susec and older providers and accused them of “micro expressions.”
- d. Just within the last several days, one of the members of this clique targeted an older provider whose wife was admitted into the emergency room at St. Vincent Evansville. What is remarkable is that this clique member accessed the patient’s information by violating HIPPA and gave this HIPPA protected information to Dr. Steele. The older physician was reproached by Dr. Steele. As a result, a formal written complaint was filed by the older provider on account of the serious HIPPA violation and Dr. Steele’s inappropriate response. This very serious HIPPA violation was not timely addressed by Team Health, and no action has been taken yet by Team Health against the clique member for this very serious HIPPA violation.
- e. On information and belief, a former Chihuahua member (and perhaps present members) sent a letter just prior to Dr. Susec’s termination to St. Vincent Evansville making baseless allegations of harassment about Dr. Susec. This letter was part of the Chihuahuas’ campaign to eliminate Dr. Susec, and perhaps the “sentinel event” resulting in his termination. These allegations were not shared with Dr. Susec and are without merit. There was never any investigation by Team Health concerning these allegations. These allegations were accepted as true by Team Health because Team Health stereo-typically believes that on account of his

age, Dr. Susec is unable to appreciate unacceptable conduct, when in fact, the alleged conduct itself is completely untrue.

- f. After one of the Chihuahuas accused Dr. Susec of sexual discrimination to Team Health Dr. Susec informed Team Health that the complainant intentionally manipulated communications in order to create a narrative for the claim. Based on information and belief, Team Health again ignored Dr. Susec's information and concerns.

24. Despite repeated efforts by Dr. Susec to have Team Health investigate and intervene in this disruptive, hostile environment, nothing was done except for Team Health's removal of Dr. Susec as Medical Director in order to protect and preserve their contractual relationship with St. Vincent.

25. The Chihuahuas' main motive to have Dr. Susec and his older assistant director removed was to create a change in generational leadership. They discriminated against Dr. Susec and others because of his age and generational differences that could not be reconciled with their own differing perspectives and opinions. Their strategy to remove as an experienced and successful medical director was to target Dr. Susec and other older providers that aligned with him.

#### **Termination As Medical Director**

26. On June 27, 2020, Dr. Susec was terminated as Medical Director at both St. Vincent Evansville and St. Vincent Warrick during a phone teleconference with his Team Health supervisor, Dr. Steele, and his supervisor, Dr. Mast. Dr. Susec was informed that his positions as Medical Director at both St. Vincent Evansville and St. Vincent Warrick were being terminated 'without cause' effective August 1, 2020.

27. Although Dr. Susec was told that he had been terminated from his position without “cause,” he was told during a subsequent teleconference by Dr. Mast that “as an old-timer,” he had committed “micro-expressions”, and “as times have changed”, he failed to appreciate and manage the cultural and generational sensitivities and conflicts of younger providers.

28. Team Health’s perception was that Dr. Susec was deficient by being “too old” to appreciate social sensitivities. Dr. Mast also implied that Dr. Susec was unable to process the “education” required through Team Health’s HR training.

29. Dr. Susec was told that “as an old-timer” Dr. Susec did not appreciate micro-expressions in the work environment. This stereotypical belief was reached by Team Health on account of complaints made by the Chihuahua clique who had complained to St. Vincent and Dr. Steele that Dr. Susec was out of touch with the younger providers’ generational differences. Dr. Steele and Dr. Mast accepted the clique’s complaints without investigating the merits of the underlying complaints. Likewise, older providers made complaints to Team Health of the Chihuahuas’ actions against them and none of these complaints were investigated by Team Health prior to Dr. Susec’s termination. Team Health’s upper management completely ignored the hostility to older providers at the St. Vincent Evansville facility.

30. The age discrimination is ongoing. One of the providers at St. Vincent Evansville wrote to Team Health on August 4, 2020, and identified specific providers that have been targets of age discrimination. She also identified the problems with the clique noting that the average age of the clique members were mostly in their early thirties.

31. Team Health has not made any effort to stop the hostile environment within the emergency department. There has been no action taken by Team Health concerning these allegations to stop the clique's hostile behavior towards older providers at the St. Vincent Evansville facility.

32. Dr. Susec was terminated as Medical Director on account of his age.

COUNT I – AGE DISCRIMINATION

33. Susec incorporates herein by reference each and every allegation contained in paragraphs 1 through 32.

34. Susec, who at all times relevant to this Complaint was over the age of forty (40), is a member of a protected class.

35. Susec consistently met Team Health's job performance expectations and received merit bonuses and exceptional evaluations each year he worked for Team Health.

36. Team Health willfully terminated and refused to continue to employ Susec because of his age in violation of 29 U.S.C.A. § 623.

37. As a proximate result of Team Health's conduct, Susec has suffered damages.

PRAYERS FOR RELIEF

WHEREFORE, Susec respectfully prays for judgment against Team Health including but not limited to:

- a. Unpaid wages, front pay, prejudgment interest, and other compensations due and owing for damage to reputation, emotional duress, reduction in clinical hourly wage at his new job compared to St. Vincent, personal expense and time relocating careers;
- b. Liquidated damages pursuant to 29 U.S.C.A. § 626 for willful violations of 29 U.S.C.A. § 623;

- c. Costs incurred in pursuing this action, including reasonable attorney fees and the fees of Susec's experts, if any;
- d. This Court retaining jurisdiction of this action to ensure full compliance by Team Health with the Court's judgement and decree; and
- e. All such other relief to which Susec may be entitled and which may be just and proper in the premises.

BARBER & BAUER, LLP  
124 SE First Street, Suite 101  
Evansville, Indiana 47708  
Telephone: (812) 425-9211

By: /s/ Steve Barber  
Steve Barber, Atty. #2560-82

JURY DEMAND

Susec demands trial by jury on all counts of this Complaint

BARBER & BAUER, LLP  
124 SE First Street, Suite 101  
Evansville, Indiana 47708  
Telephone: (812) 425-9211

By: /s/ Steve Barber  
Steve Barber, Atty. #2560-82